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JANE CALFEE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JOHN MCALLISTER,)	Civil No. CV 04 00625SOM BMK
)	
Plaintiff,)	DEFENDANT JANE CALFEE'S REPLY
)	MEMORANDUM IN SUPPORT OF HER
vs.)	MOTION FOR LEAVE TO FILE
)	MOTIONS <i>IN LIMINE</i> ; CERTIFICATE
)	OF SERVICE
UNIVERSITY OF HAWAII`I;)	
KAPIOLANI COMMUNITY COLLEGE;)	
JANE CALFEE, Instructor at)	
Kapiolani Community College;)	
RICHARD DOE, Academic Counselor)	[NON-HEARING MOTION]
at Kapiolani Community College;)	
JILL MAGNAGON, Director of)	
Academic Counseling at)	
Kapiolani Community College;)	
MONA LEE, Dean of Student)	
Services at Kapiolani Community)	
College,)	
)	
Defendants.)	
)	
)	

**DEFENDANT JANE CALFEE'S REPLY MEMORANDUM IN SUPPORT
OF HER MOTION FOR LEAVE TO FILE MOTIONS *IN LIMINE***

Pursuant to LR 7.4 and 7.5 and all applicable rules of
procedure, Defendant JANE CALFEE ("CALFEE"), by and through her

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Jan 23 2006
JAN 23 2006
at 10 o'clock and 46 a min.
SUE BEITIA, CLERK

attorneys, WATANABE ING & KOMEIJI LLP, hereby submits her reply to the points raised by Plaintiff JOHN McALLISTER ("Plaintiff") in Plaintiff's Memorandum in Opposition to Defendant Jane Calfee's Motion for Leave to File Motions in Limine filed 1/9/06, filed on January 13, 2006 ("Opposition").

I. INTRODUCTION

In his Opposition, Plaintiff does not dispute that Defendant CALFEE has established good cause to move for an order granting her leave to file up to five (5) motions *in limine*.

Plaintiff also fails to establish what prejudice he would suffer, or indicate how any supposed prejudice would outweigh the undue prejudice that Defendant CALFEE would suffer if she were not afforded at least an opportunity to exclude improper evidence, and possibly narrow the scope of the issues and/or evidence to be introduced at trial.

Accordingly, Defendant CALFEE respectfully requests that her Motion for Leave be granted in light of the recent entry of counsel on her behalf.

II. ARGUMENT

Plaintiff does not dispute that Defendant CALFEE has established good cause to request leave to file motions *in limine*. As indicated in the Motion, counsel for Defendant CALFEE only recently appeared on her behalf, and has since identified several areas/subjects that would unduly prejudice Defendant

CALFEE's ability to fairly defend her case if such areas/subjects are introduced at trial. Plaintiff, in fact, acknowledges that counsel for Defendant CALFEE is "attempting to do its job," in making such a request. See Opposition at 2. Defendant CALFEE thus submits that she has shown good cause to request leave to file a reasonable number of motions *in limine* at this time.

Plaintiff, on the other hand, has not established that he will suffer prejudice if the instant Motion were granted. In his Opposition, Plaintiff's primary argument against allowing Defendant CALFEE to file a motions *in limine* appears to be that his counsel has a busy schedule. See Opposition at 2. Plaintiff, however, does not address that fact that he will have until February 16, 2006 to prepare responses to Defendant CALFEE's motions *in limine*, which appears to be a reasonable amount of time prepare an adequate response. Plaintiff therefore will not be prejudiced in that regard.

Finally, as addressed more fully in the Motion, Rule 16 of the Federal Rules of Civil Procedure specifically authorizes parties to obtain "advance rulings from the court on the admissibility of evidence" and does not dictate an exact deadline as to when such Motions must be brought. See Fed. R. Civ. P. 16(c)(3). In fact, such motions are viewed favorably, and parties are "encourage[d] ... to bring motions *in limine* on evidentiary questions ... [to] prevent disruptions at trial which


could render the proceedings incoherent to the jurors." See See Palmerin v. City of Riverside, 794 F.2d 1409, 1413 (9th Cir. 1986) (emphasis added); see also 3 Moore's Federal Practice § 16.77[4][d][i] and [ii] (3d ed. 2005) (Parties should file motions *in limine* prior to the commencement of trial to narrow the scope of the issues and/or evidence to be presented at trial, and to assist the parties in the preparation of their respective cases).

Plaintiff simply has not provided any reasonable basis for why Defendant CALFEE's Motion should be denied. Accordingly, Defendant CALFEE respectfully requests that the instant Motion be granted.

IV. CONCLUSION

For the foregoing reasons, Defendant CALFEE respectfully moves this Honorable Court for leave to file no more than five (5) motions *in limine* in this matter.

DATED: Honolulu, Hawaii, JAN 23 2006.



JOHN T. KOMIJI
GREGG M. USHIRODA
KAREN Y. ARIKAWA
Attorneys for Defendant
JEAN CALFEE

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MONA LEE, Dean of Student)	
Services at Kapiolani Community)	
College,)	
)	
Defendants.)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was duly served on the following by depositing same in the United States Mail, postage prepaid, addressed to their following last known addresses:


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(incorrectly identified as Jill
Magnagon) and MONA LEE**

DATED: Honolulu, Hawaii, JAN 23 2006.



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JEAN CALFEE